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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:

Carlo Amalfitano and Kevin L Farley

Application No.: 09/773,255

Group: 2686

Filed: January 31, 2001

Examiner: Willie J. Daniel, Jr.

Confirmation No.: 4337

For: QUEUING FAR/FAR SERVICE REQUESTS IN WIRELESS NETWORK

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REPLY BRIEF

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Sir:

This Reply Brief is submitted in response to the Examiner's Answer mailed from the U.S. Patent and Trademark Office on March 8, 2006, for the above-referenced patent application.

STATUS OF CLAIMS

Claims 3, 4, and 8-17 remain in the application. Claims 1, 2 and 5 - 7 were cancelled in the Amendment filed on January 5, 2004. Claims 3, 4 and 8 were amended in the Amendment filed on January 5, 2004. Claims 9 - 17 were added in the Amendment filed on January 5, 2004.

GROUND OF REJECTION ON APPEAL

As a concise statement of the grounds for appeal, Appellants state that Claims 3, 4, and 8-17 were rejected under 35 U.S.C. 102(b), with the Examiner finding the claims to be anticipated by Dent (U.S. Patent No. 5,894,473).

ARGUMENTS

The following arguments address issues in the order in which they were raised by the Examiner's Answer.

Rejections of Claims 3, 4, and 8-17 under 35 U.S.C. § 102

Claims 3, 4, and 8-17 have been rejected under 35 U.S.C. §102(b), with the Examiner finding the claims to be anticipated by Dent (U.S. Patent No. 5,894,473).

With regard to the § 102 rejections of claims 3, 4, and 8-17, the Appellants do indeed agree with the Examiner to the extent that "Dent is concerned with coordinating the transmission of cellular signals...." However, the Appellants still submit that the Examiner has failed to establish that Dent discloses the Appellants' claimed feature of "receiving, by the operating base station, a report of an expected time of high and/or low interference communications from an adjacent base station".

The Examiner argues Appellant's claimed invention is anticipated by Dent. Specifically, the Examiner states, on page 10 paragraph A of the Examiner's Answer, "The Mobile Switching Center (MSC) or Base Station (BS) controller (e.g., processor) performs the processing decisions in which the BS provides the information of the candidate cells to the mobile unit (see col. 20, line 39-col. 21, line 6; Fig. 12), where the MSC, BS, and mobile unit communicate and exchange information within the system to determine how to allocate the timeslots. Therefore, the each BS must have information reported, transmitted, or received from each of the adjacent BS in order to provide the scheduling (or coordinating) of timeslots between low and high interference...." The Appellants respectfully disagree.

The above assertions merely amount to arguing that Dent discloses a processing decision with which a BS provides information of candidate cells to a mobile unit. However, providing candidate cells information is not the same as providing a report of an expected time of high and/or low interference communications nor is it inherent to do so in a cellular system. It is conventional in the art to pre-assign a "frequency reuse plan" that defines frequencies and time slots among base stations. Such assignments are fixed by a network operator and do not change over time. In such systems, there is no need for adjacent base stations to report times of expected (but not guaranteed) low or high interference.

Further, in the Examiner's Answer, the Examiner seems to avoid addressing this claimed aspect of the Appellants' invention. At best, on page 10 of the Examiner's Answer, the Examiner indicates that Dent discloses a BS having "reported information" without any further explanation of what the reported information is. Even if Dent discloses report information, the Examiner has failed to show where Dent discloses a report with an expected time of high and/or low interference communications. Thus, Dent does not provide an identical disclosure of each feature of the claimed invention. Every claim either recites this limitation, or contains the limitation through dependency. Therefore, Appellants respectfully submit that the Examiner has failed to make out a prima facie case under 35 U.S.C. § 102.

With regard to page 11, paragraph B of the Examiner's Answer, Appellants, for the purposes of clarity, would like to restate a previous argument. In particular, on pages 7 and 8 of the Brief on Appeal Appellants respectfully disagreed with the Examiner's conclusion of various sections of Dent as supposedly teaching this transmission of the report. Further, Appellants argued none of those places, nor anywhere else, does Dent mention or suggest the base stations sending such a report. For example, the Examiner points to three specific areas of Dent namely a) column 8, lines 29-37 ; b) column 16, lines 11-15 and 32-64; and c) column 29, line 39 - column 21, line 6. These areas of Dent are concerned with a) "subtractive demodulation" techniques; b) "re-use partitioning" techniques; and c) "handover" techniques (hereinafter "techniques a)-c)") and neither area alone or collectively teach, suggest or otherwise make obvious any type of report being sent or received from an adjacent base station. In response this argument in the Appellants' Brief on Appeal, the Examiner merely states "Appellants' argument of claims 3, 8, and 13 on pg. 7, section C, 3rd paragraph, line 6 – page 8, 1st paragraph, line 1, that ...with a) subtractive demodulation...re-use partitioning...c) handover..., these arguments are drawn to subject matter not claimed."

Appellants believe the Examiner has misunderstood their argument. Appellants were not arguing that techniques a)-c) are distinguishing features of the claimed invention. Instead, Appellants were merely characterizing techniques a)-c) of Dent and that they do not amount to the claimed invention. Further, Appellants agree with the Examiner's assertion, on page 11 of the Examiner's Answer, that techniques a)-c) "are drawn to subject matter not claimed" by Appellants. Even if techniques a)-c) are drawn to subject matter not claimed, techniques a)-c),

cannot be said to be the same as "a report of an expected time of high and/or low interference communications from an adjacent base station", i.e., a claimed feature.

CONCLUSION

For reasons set forth above and in the Appellants' Appeal Brief, Appellants respectfully request that the Board of Patent Appeals and Interferences reverse all of the rejections currently maintained by the Examiner in the above-identified application.

Respectfully submitted,

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